



U.S. Department of Justice

Immigration and Naturalization Service

OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536

B3

Public Copy

File: WAC 99 091 50301 Office: California Service Center Date: JAN 8 2001

IN RE: Petitioner:
Beneficiary:

Petition: Immigrant Petition for Alien Worker as an Outstanding Professor or Researcher pursuant to Section 203(b)(1)(B) of the Immigration and Nationality Act, 8 U.S.C. 1153(b)(1)(B)

IN BEHALF OF PETITIONER:

Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Mary C. Mulrean, Acting Director
Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, California Service Center, and is now before the Associate Commissioner for Examinations on appeal. The appeal will be summarily dismissed.

The petitioner is a semiconductor manufacturer. It seeks to classify the beneficiary as an outstanding researcher pursuant to section 203(b)(1)(B) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1153(b)(1)(B). The petitioner seeks to employ the beneficiary permanently in the United States as a senior server system architect. The director determined that the petitioner had not established that the beneficiary is recognized internationally as outstanding in his academic field, as required for classification as an outstanding researcher. The director also determined that the beneficiary's duties are more akin to those of an engineer than to those of a researcher.

On the Form I-290B Notice of Appeal, filed on January 26, 2000, counsel indicated that a brief would be forthcoming within 60 days. To date, over ten months later, careful review of the record reveals no subsequent submission; all other documentation in the record predates the issuance of the notice of decision. The assertion that a brief is forthcoming is not sufficient basis for a substantive appeal.

8 C.F.R. 103.3(a)(1)(v) states, in pertinent part:

An officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal.

Inasmuch as counsel has failed to identify specifically an erroneous conclusion of law or a statement of fact as a basis for the appeal, the appeal must be summarily dismissed.

We note that, subsequent to filing the instant petition and appeal, the petitioner filed another Form I-140 petition under the same classification, with receipt number WAC 00 149 51874. Service records further indicate that the second petition was approved on June 13, 2000. The petitioner has thus already secured an approved immigrant visa petition in the classification sought. The beneficiary has already filed an application for adjustment of status based on the approved petition. For these reasons, it is not clear what the petitioner or beneficiary would stand to gain from further consideration of the appeal at hand.

ORDER: The appeal is dismissed.